

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

DEANGELO CLAY,

Plaintiff,

v.

CATES,

Defendant.

CASE NO. 1:20-cv-00971-AWI-EPG (PC)

**ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS AND
DISMISSING PLAINTIFF'S
COMPLAINT**

(Doc. No. 20)

Plaintiff DeAngelo Clay is a state inmate proceeding pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983. This action proceeds on Plaintiff's second-amended complaint against Defendant Cates for alleged violation of Plaintiff's rights under the Eighth Amendment and Article I, Section 17 of the California Constitution. This matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Eastern District of California Local Rule 302.

On January 28, 2021, the assigned magistrate judge issued findings and recommendations, recommending that Plaintiff's second-amended complaint be dismissed. Doc. No. 20. Those findings and recommendations were served on Plaintiff and contained notice that any objections thereto were to be filed within twenty-one days. *Id.* at 9. No objections have been filed, and the deadline to do so has expired.

In accordance with the provisions of 28 U.S.C. § 636 (b)(1)(C), this Court has conducted a de novo review of the case. Having carefully reviewed the entire file, the Court concludes that the magistrate judge's findings and recommendations are supported by the record and by proper analysis.

ORDER

Accordingly, IT IS HEREBY ORDERED that:

1. The findings and recommendations (Doc. No. 20) issued on January 28, 2021, are ADOPTED in full;
2. Plaintiff's second-amended complaint (Doc. No. 18) is DISMISSED without leave to amend;
 - a. Plaintiff's federal constitutional claim is dismissed with prejudice for failure to state a claim;
 - b. Plaintiff's state-law claim is dismissed for lack of subject-matter jurisdiction without prejudice to Plaintiff refiling such claim in state court; and
3. The clerk of court is directed to CLOSE this case.

IT IS SO ORDERED.

Dated: April 14, 2021



SENIOR DISTRICT JUDGE